

RAPE AS A WAR CRIME

“If you can find one woman here who has not been raped I will give you a prize”

Head of a refugee camp in Africa*



Rape is internationally recognised as a crime against women, but sadly, despite great advances in international law, very little has changed for refugee women and girls. The issue is still seldom talked about. Refugee women are resilient and strong, but resilience needs support, not silence. This paper written by Dr EILEEN PITTAWAY, Director of the Centre for Refugee Research at the University of New South Wales, and researcher EMMA PITTAWAY, is based on 20 years of work with refugee women from African, Latin American, Asian and East European nations who have survived sexual violence in conflict situations.

Over the past decade there has been increasing acknowledgement of the endemic nature of the use of systematic rape and other forms of sexual torture in conflicts and wars, including the use of forced pregnancy as a form of genocide. This has been acknowledged in law, in the Statutes for the International Criminal Court, which declare that rape, in conflict situations, is a crime against humanity, a war crime, and in some cases, an act of genocide. It is included in the United Nations Security Council Resolutions 1325 and 1820, which address the role of women in conflict and post-conflict situations. Despite these advances, little is happening for the women who are suffering these gross violations of their human rights.

There are currently 15.2 million refugees in the world and 26 million internally displaced people. The majority of these are women and children, many of whom routinely suffer from systematic sexual abuse. The violence of current conflicts is not played out on a distant battle field. It takes place in the village and in the community. Rape and sexual abuse is the most common form of systematised torture used against women. This ranges from gang rape by groups of soldiers, to rape by trained dogs and the brutal mutilation of women's genitalia.

Women and children are raped to humiliate their husbands and fathers, for reasons of cultural genocide, to exhort information, degrade communities and create fear. These atrocities occur publicly and often involve a level of depravity which is difficult to understand. Fathers and sons are forced at gun point to sexually violate mothers and daughters. Whole villages of

women are raped and have their nipples cut with wire cutters.

Escape to a refugee camp often does not provide protection. The United Nations High Commissioner for Refugees (UNHCR) acknowledges that refugee women and many children are routinely raped and sexually abused in refugee camps. Women are raped by local men in the host countries, who often resent the refugees. They are also raped by other refugees, by police, military, aid workers and the peace keepers sent to protect them. They are forced to trade sex for food for their children.

Women “shamed” by their public rape in the community are shunned in the camps. Women and girls, who bear children from rape, are sometimes forced into prostitution in order to feed themselves and their children.

Many refugee women have traumatised children who may have witnessed torture and rape. Some have experienced it first hand, they have seen fathers, brother, and uncles killed, or ‘disappear’. Children have nightmares because they remember bombing and living on the run. Their traumatised mothers have to respond to the needs of their children as well as their own.

The health risks to women, both physical and mental, from these experiences are extreme, and yet at field level they are still often hidden behind a wall of silence. It is only very recently that they have been placed high on the agenda of UNHCR and other agency meetings. Still it is hidden in a welter of euphemistic language.

The public health system has been one of the few groups to deal with this

issue and offer services to women, but this has been done under the banner of “sexual and reproductive health”. At the time when these services began, it was the only way that they could breach the silence.

Women who have suffered rape and sexual abuse report keeping it secret from those who should be offering them redress and protection for fear of being labelled prostitutes and being denied refugee status on moral grounds. This is well documented by UNHCR, Amnesty International, and many aid agencies working with refugee women.

Many men don't accept that their wives have been raped. A Vietnamese saying *‘I will not put my chopsticks in the rice bowl where another man has eaten’* typifies the attitude of many men towards their wives who have been sexually abused. Instances of women being abandoned or abused and their husband taking a mistress or another wife have forced many women to stay silent about their experience, even with their closest family members.

A conspiracy of silence still exists about the true extent of the problem, and until it is fully acknowledged women will not receive the services which they deserve. In much of the literature, forced prostitution, sexual slavery, and women forced into unwanted relationships with men, in order to feed their children, are referred to as “engaging in transactional sex” or “exchanging sexual favours”. Women held as sex slaves are referred to as ‘wives’ or ‘girlfriends’. This euphemistic language is effectively decriminalising the acts of torture and serious criminal abuse which these women are suffering.

Sadly, the widespread prevalence and normalising of rape operates to prevent it being recognised as torture. If it were, it would place beyond doubt that rape is a legitimate legal ground for claiming persecution, allowing women to argue for refugee status. As one theorist aptly summarises:

There is a tendency to view the physical and mental abuse of women as aberrant social or criminal behaviour or as a ubiquitous feature of social relations. Violence predicated on gender is rarely seen as severe enough to be labelled torture.

At present, the common belief that women cannot be protected from rape, due to the frequency of its occurrence in all societies is enshrined in international refugee policy by the notion of the "universal imperative" (UNHCR, 2002). Implicit in this practice is the attitude that

rape and sexual violence cases are not as serious as other forms of torture and human-rights violations. Despite this, the overwhelming majority of rape and sexual violence against women can be seen to constitute torture as defined by the UN Convention Against Torture as:

'Any act by which severe pain or suffering whether physical or mental is intentionally inflicted on a person for such purposes as ... intimidating or coercing [her] or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

Whether or not rape inflicts severe physical injury, which is irrelevant in the determination of torture, it has the same long-term psychosocial effects. It is an attack on a person's identity, and on the

most intimate parts of their body and soul. The resulting humiliation, shame and fear can be carried with the victim for the rest of her life. Victims of rape and torture experience depression and suicidal thoughts, self-hatred, guilt, despair, reliving of the traumatic experience, insomnia, nightmares, appetite loss, family and friendship disintegration and social isolation and alienation.

Systematic rape and other war-related forms of sexual violence are now formally recognised as sexual torture by international law. Despite this the prevalent social attitude to rape equates it with physical assault, comparable to being mugged or bashed. Torture, on the other hand, is regarded separately, as a more serious offence against one's person. The perceived uniqueness of torture, that sets it alone as something particularly abhorrent, is its 'political' motivation. The

intentional destruction of identity and integrity characteristic of torture seems to make it especially inhumane.

The same intention is rarely recognised in rape and sexual violence, which is commonly believed to have a 'personal' nature that makes it a less severe form of violation. Partly due to its intimacy and often private occurrence, and partly due to its prevalence and normalisation – in short, because it is supposedly a 'personal', 'normal', or even 'natural' act, rape is not usually regarded as a political tool or a form of torture by field workers working with refugees. One researcher from the Asian Legal Resource Centre notes that:

"When discussing [the issue of sexual torture] with colleagues from many countries, I am presented with the view that torture of women is rare in their country, only to hear them add in the

next moment: 'But women suffer rape by police and prison officers'."

This widespread attitude not only denies rape undisputed legal grounds for its recognition as gender-based persecution, but inhibits the recognition of the severity of the human-rights violations refugee women continue to experience in flight and in refugee camps and settlements.

It is critical that we challenge the notion that it is better not to talk about "these shameful issues" and challenge the myth "that women should put it behind them and that legal redress will not help". Refugee women themselves from across the world are saying this is not the case. They want the issues addressed. They want acknowledgement that what they have suffered is a crime. They desperately need the increased levels of effective and appropriate services which are designed

to respond to the sexual violence they have endured and they need appropriate psychosocial support.

For years the international women's movement fought so that rape in conflict situations would be recognised as a war crime at the United Nations Beijing Conference on Women in 1995. As we approach "Beijing 15", an international conference to evaluate the outcomes of that meeting, it is sad to see that rape in conflict is as prevalent as it ever was. New laws are not enough. Our major challenge is how to change attitudes. ■

*The name of the refugee camp is not mentioned to protect the privacy of the women who have spent time in that camp.

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HELEN'S STORY*

By Rebecca Hinchey

Meet Helen Teklem*, the bravest woman alive today. Helen should be dead. She should be curled up in a corner, wracked by sorrow and despair, deep in a psychotic hole.

She's not. Helen's achingly beautiful face regularly shines with a smile. She cares for her children well. And she says to other women: "you deserve better, your lives are worth more."

Helen exemplifies the extraordinary courage of millions of refugee women around the world, women who have been bruised, battered and brutally raped by men who think their lives are nothing more than a pawn in their game.

Helen's life of horror began in her earliest days when she was barely able to walk.

Her cruel and violent father bludgeoned his wife and, leaving her for dead, took off. At the mercy of her neighbours, Helen survived on their scraps of food in exchange for sexual touching.

When she reached eight, her grandfather promised her to a much older man. Hideous as her life was, it was set to deteriorate.

No one knows how many child soldiers were forced to take part in Eritrea's 30 year war with Ethiopia. We do know that children were forced to take part in despicable acts. We know they saw other children's heads blown off. We know they were forced to kill. We know they were regularly beaten. We know they were raped.

Helen knows this too well. She was one of them. A tiny nine year old, she was taken hostage by a group of soldiers, and walked for days before reaching the 'training camp'.

"I was treated badly again, more sexual abuse," she shares bravely. "They were allowed to do anything they wanted but you can't complain," she says. She was put to work as a sex slave. "One

man would rape me, and then another would come and rape me. I would lose count," she recalls.

The excruciating pain of her life was unbearable. Running away was futile and brought more punishment on Helen and the others who tried. On the edge, she made a pact with another girl, Saba* that they would die by their own hand. Lying with a group of babies, Helen was filled with guilt. If she killed herself, the babies would probably die too. She couldn't do it.

So she watched her friend, bomb in tiny hand. Saba pulled the pin and her tiny body was cut into thousands of pieces.

"They tied my hands and beat me," Helen explains the punishment she received for her friend's actions.

She was sent to cook for 150 men, but couldn't keep up with the arduous schedule. The rapes started again.

"This one guy, he raped me and called me dirty. Then another one did the same thing. They said I deserve to die.

"Always I fear they might kill me." They put me in the front line of war as punishment," she says through tears.

At 14 Helen managed to escape, but it was a twisted salvation. She was found by the Ethiopian army. For two more years she endured constant rapes.

After the Ethiopians, Helen suffered more abuse by Eritrean men. She fell pregnant, and, under threat of abortion, she escaped. She went to live with an aunt but her child was taken away and placed with Helen's paternal grandmother.

The military father of her baby took Helen back and more misery ensued. The hopelessness of her life was overwhelming; Helen tried many times to die. Eventually she fled to Sudan, on the edge of insanity. With no other choices she worked as a prostitute. Even when she tried other jobs she was raped.

Time passed and Helen was forced to marry an Ethiopian man. His violence was cruel and savage. He would leave for months

at a time to see other women, leaving Helen with no food. Her emaciated body would shrivel as she starved, close to death. Then, for the first time, the sun began to shine on Helen's life.

A friend took her case to the United Nations and in 1994 she landed in Canada. A slow and painful recovery began. Two steps forward, one step back. Some counsellors helped, some didn't. The pain has not ended. Perhaps it never will. There were hiccups along the way. But there were triumphs too.

Her Ethiopian husband came to Canada, harassed her, demanded sex when he was drunk and stole her money. She escaped to Vancouver, and then to Australia.

Helen met another Eritrean, a kind man. But decades of abuse made relationships tough.

She had three boys, and eventually returned to Eritrea to find her daughter at which time she discovered that her mum was alive after all. Since she was two years old she had believed her mother dead.

Helen fought to bring her daughter to Australia – and won. She speaks fluent English. She has never been to school, but she learned to read and write. Helen is smart, really smart.

But she is still very angry. Angry and confused. The questions won't stop. "Why, why, why? Why me? Why are they so cruel? Where is their conscience?" she asks.

Helen wonders if her life will ever be 'normal'. Has her soul been destroyed? She holds her head high and tells the Eritrean community that what happened to girls, what happened to women is wrong. Helen courageously shares her life of pain, so that other people's pain may be less. She says to other women, "You can be strong like me. You can escape. You should be treated well, respected. It's not western, it's just right."

She thanks Australia for its care and for its safety. ■

*Not her real name.